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असाधारण

EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पाठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 22nd October, 1982:—

I

BILL No. XXXVI OF 1982

A Bill to give effect to the Convention for the Suppression of Unlawful Seizure of Aircraft and for matters connected therewith.

WHEREAS a Convention for the Suppression of Unlawful Seizure of Aircraft was, on the 16th day of December, 1970, signed at The Hague;

AND WHEREAS it is expedient that India should accede to the said Convention and make provisions for giving effect thereto and for matters connected therewith;

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Anti-Hijacking Act, 1982.

(2) It extends to the whole of India and, save as otherwise provided in this Act, it applies also to any offence thereunder committed outside India by any person.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent,
application
and com-
mencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) “aircraft” means any aircraft, whether or not registered in India, other than a military aircraft or an aircraft used in customs or police service;
- (b) “aircraft registered in India” means an aircraft which is for the time being registered in India;
- (c) “Convention country” means a country in which The Hague Convention is for the time being in force;
- (d) “Hague Convention” means the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on the 16th day of December, 1970;
- (e) “military aircraft” means an aircraft of the naval, military, air force or any other armed forces of any country and includes every aircraft commanded for the time being by a person in any such force detailed for the purpose.

CHAPTER II

HIJACKING AND CONNECTED OFFENCES

Hijacking.

- 3. (1) Whoever on board an aircraft in flight, unlawfully, by force or threat of force or by any other form of intimidation, seizes or exercises control of that aircraft, commits the offence of hijacking of such aircraft.
- (2) Whoever attempts to commit any of the acts referred to in sub-section (1) in relation to any aircraft, or abets the commission of any such act, shall also be deemed to have committed the offence of hijacking of such aircraft.
- (3) For the purposes of this section, an aircraft shall be deemed to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and in the case of a forced landing, the flight shall be deemed to continue until the competent authorities of the country in which such forced landing takes place take over the responsibility for the aircraft and for persons and property on board.

Punishment for hijacking.

- 4. Whoever commits the offence of hijacking shall be punished with imprisonment for life and shall also be liable to fine.

Punishment for acts of violence connected with hijacking.

- 5. Whoever, being a person committing the offence of hijacking of an aircraft, commits, in connection with such offence, any act of violence against any passenger or member of the crew of such aircraft, shall be punished with the same punishment with which he would have been punishable under any law for the time being in force in India if such act had been committed in India,

6. (1) Subject to the provisions of sub-section (2), where an offence under section 4 or section 5 is committed outside India, the person committing such offence may be dealt with in respect thereof as if such offence had been committed at any place within India at which he may be found.

Jurisdiction.

(2) No court shall take cognizance of an offence punishable under section 4 or section 5 which is committed outside India unless—

(a) such offence is committed on board an aircraft registered in India;

(b) such offence is committed on board an aircraft which is for the time being leased without crew to a lessee who has his principal place of business or where he has no such place of business, his permanent residence in India; or

(c) the alleged offender is a citizen of India or is on board the aircraft in relation to which such offence is committed when it lands in India or is found in India.

CHAPTER III

MISCELLANEOUS

7. (1) The offences under section 4 and section 5 shall be deemed to have been included as extraditable offences and provided for in all the extradition treaties made by India with Convention countries and which extend to, and are binding on, India on the date of commencement of this Act.

Provisions
as to
extradition.

34 of 1962.

(2) For the purposes of the application of the Extradition Act, 1962 to offences under this Act, any aircraft registered in a Convention country shall, at any time while that aircraft is in flight, be deemed to be within the jurisdiction of that country, whether or not it is for the time being also within the jurisdiction of any other country.

8. The Central Government may, by notification in the Official Gazette, certify as to who are the contracting parties to The Hague Convention and to what extent they have availed themselves of the provisions of the Convention, and any such notification shall be conclusive evidence of the matters certified therein.

Contracting
Parties to
Convention.

9. If the Central Government is satisfied that the requirements of Article 5 of The Hague Convention have been satisfied in relation to any aircraft, it may, by notification in the Official Gazette, direct that such aircraft shall, for the purposes of this Act, be treated as registered in such Convention country as may be specified in the notification.

Power to
treat cer-
tain air-
craft to be
registered
in Conven-
tion coun-
tries.

10. No prosecution for an offence under this Act shall be instituted except with the previous sanction of the Central Government.

Previous
sanction
necessary
for
prosecution.

Protection
of action
taken in
good faith.

11. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

(2) No suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

In recent years, there has been an increase in offences by way of unlawful seizure of aircraft or hijacking. A Convention for the Suppression of Unlawful Seizure of Aircraft was drawn up at the diplomatic conference held at The Hague in December, 1970 for adoption by States, by the representatives of 77 Governments. For dealing more effectively with offences involving unlawful seizure of aircraft or hijacking, it is proposed that India should ratify this Convention. The ratification of the Convention involves obligation for making necessary legal provisions for giving effect thereto.

2. The salient features of the Convention are:

(a) *Nature of acts to which the Convention applies.*—The Hague Convention has created a new international offence, the offence of unlawful seizure of aircraft alias, hijacking. The Convention covers offences committed by any person on board an aircraft in flight.

A person who unlawfully, by force or threat thereof, or by any other form of intimidation, seizes or exercises control of the aircraft, commits the offence of hijacking, whatever his nationality and whatever the State in which the aircraft is registered and whether the aircraft is in India or elsewhere.

The Convention applies equally to attempts made and to accomplices who are on board the aircraft.

The Convention calls for the offences to be made punishable by severe penalties.

(b) *Aircraft to which the Convention does not apply.*—The Convention does not apply to military aircraft or to aircraft belonging to customs or police service.

(c) The Convention is applicable only to aircraft in flight that is to say, from the moment when all its external doors are closed following the embarkation until the moment when any such door is opened for disembarkation, or "in the case of forced landing—until the competent authorities take over the responsibility for the aircraft and for persons and property on board". Any pre-flight or post-flight attempt at hijacking will primarily be the concern of the territorial State and not within the scope of the Convention.

(d) the prime purpose of the Convention is to ensure the punishment to hijacker so as to deter hijacking. To this end, the Convention obliges every contracting State in whose territory an alleged hijacker is found either to extradite him or to punish him.

(e) *Jurisdiction*.—In respect to offences and acts committed on board an aircraft, the Convention without prejudice to the exercise of jurisdiction by the State over whose air-space the offence was committed confers jurisdiction on the State of registration of the aircraft, the State of residence of the lessee of a leased aircraft who has its principal place of business or when the lessee has no such place of business, his permanent residence in that State and any State where the offender is found. Thus a limited principle of universality has been introduced in the Convention so that a hijacker should not be able to find a haven of immunity at least among the contracting States.

3. Though The Hague Convention does not apply to hijacking of an aircraft when both the place of take off and the place of landing are situated in the country in which the aircraft is registered, it is proposed to avail of the present opportunity to cover such cases also in respect of aircraft registered in India.

4. The Bill seeks to achieve the above objects.

NEW DELHI;

BHAGWAT JHA AZAD

The 19th October, 1982.

II

BILL No. XXXVII OF 1982

A Bill to give effect to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation and for matters connected therewith.

WHENAS a Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation was, on the 23rd day of September, 1971, signed at Montreal;

AND WHEREAS it is expedient that India should accede to the said Convention and make provisions for giving effect thereto and for matters connected therewith;

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title
extent,
application
and com-
mencement.

1. (1) This Act may be called the Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982.

(2) It extends to the whole of India and, save as otherwise provided in this Act, it applies also to any offence under section 3 committed outside India by any person.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Defini-
tions.

2 (1) In this Act, unless the context otherwise requires,—

(a) "aircraft" means any aircraft, whether or not registered in India, other than a military aircraft or an aircraft used in customs or police service;

(b) "aircraft registered in India" means an aircraft which is for the time being registered in India;

(c) "Convention country" means a country in which the Montreal Convention is for the time being in force;

(d) "military aircraft" means an aircraft of the naval, military, air force or any other armed forces of any country and includes every aircraft commanded for the time being by a person in such force detailed for the purpose;

(e) "Montreal Convention" means the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on the 23rd day of September, 1971.

(2) For the purposes of this Act,—

(a) an aircraft shall be deemed to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and in the case of a forced landing, the flight shall be deemed to continue until the competent authorities of the country in which such forced landing takes place take over the responsibility for the aircraft and for persons and property on board;

(b) an aircraft shall be deemed to be in service from the beginning of the pre-flight preparation of the aircraft by the ground staff or by the crew for a specific flight until twenty-four hours after any landing and the period of such service shall include the entire period during which the aircraft is in flight.

CHAPTER II

OFFENCES

Offence of
commit-
ting
violence
on board
an air-
craft in
flight,
etc.

3. (1) Whoever unlawfully and intentionally—

(a) commits an act of violence against a person on board an aircraft in flight which is likely to endanger the safety of such aircraft; or

(b) destroys an aircraft in service or causes damage to such aircraft in such a manner as to render it incapable of flight or which is likely to endanger its safety in flight; or

(c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

(d) communicates such information which he knows to be false so as to endanger the safety of an aircraft in flight,

shall be punished with imprisonment for life and shall also be liable to fine.

(2) Whoever attempts to commit, or abets the commission of, any offence under sub-section (1) shall also be deemed to have committed such offence and shall be punished with the punishment provided for such offence

4. (1) Whoever unlawfully and intentionally destroys or damages air navigation facilities or interferes with their operation in such a manner as is likely to endanger the safety of the aircraft in flight shall be punished with imprisonment for life and shall also be liable to fine.

Destru-
ction of,
or
damage
to, air
naviga-
tion
facilities.

(2) Whoever attempts to commit, or abets the commission of, any offence under sub-section (1) shall also be deemed to have committed such offence and shall be punished with the punishment provided for such offence.

5. (1) Subject to the provisions of sub-section (2), where an offence under section 3 is committed outside India, the person committing such offence may be dealt with in respect thereof as if such offence had been committed at any place within India at which he may be found.

Jurisdicti-
on.

(2) No court shall take cognizance of an offence punishable under section 3 which is committed outside India unless—

(a) such offence is committed on board an aircraft registered in India;

(b) such offence is committed on board an aircraft which is for the time being leased without crew to a lessee who has his principal place of business, or where he has no such place of business, his permanent residence in India; or

(c) the alleged offender is a citizen of India or is on board the aircraft in relation to which such offence is committed when it lands in India or is found in India.

CHAPTER III

MISCELLANEOUS

6. (1) The offences under section 3 and section 4 shall be deemed to have been included as extraditable offences and provided for in all the extradition treaties made by India with Convention countries and which extend to, and are binding on, India on the date of commencement of this Act.

Provi-
sions as
to extra-
dition.

34 of 1962.

(2) For the purposes of the application of the Extradition Act, 1962 to offences under this Act, any aircraft registered in a Convention country shall, at any time while that aircraft is in flight, be deemed to be within the jurisdiction of that country, whether or not it is for the time being also within the jurisdiction of any other country.

7. The Central Government may, by notification in the Official Gazette, certify as to who are the contracting parties to the Montreal Convention and to what extent they have availed themselves of the provisions of the Convention, and any such notification shall be conclusive evidence of the matters certified therein.

Contract-
ing
parties
to Con-
vention.

8. If the Central Government is satisfied that the requirements of Article 9 of the Montreal Convention have been satisfied in relation to any aircraft, it may, by notification in the Official Gazette, direct that such aircraft shall, for the purposes of this Act, be treated as registered in such Convention country as may be specified in the notification.

Power to
treat
certain
aircraft
to be
registered
in
Conven-
tion
countries.

Previous
sanction
necessary
for pro-
secution.

Protec-
tion of
action
taken in
faith,
good

9. No prosecution for an offence under this Act shall be instituted except with the previous sanction of the Central Government.

10. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

(2) No suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

For dealing more effectively with offences against the safety of civil aviation, it is proposed that India should ratify the Convention drawn up at the diplomatic Conference held at The Hague in December 1970 (popularly known as the Hague Convention) for dealing with hijacking, and the Convention adopted at the diplomatic Conference held at Montreal in 1971 (popularly known as the Montreal Convention) for the suppression of unlawful acts against the safety of civil aviation. The ratification of these Conventions involves an obligation for making necessary legal provisions for giving effect thereto. While the Anti-Hijacking Bill, 1982 makes provisions for giving effect to the Hague Convention, this Bill seeks to make the necessary provisions for giving effect to the Montreal Convention.

2. The salient features of the Montreal Convention are:—

(a) *Nature of acts to which this Convention applies.*—The Montreal Convention has created new international offences. Any person—

(i) performing an act of violence against a person on board an aircraft in flight if by that act the safety of that aircraft is in danger;

(ii) destroying an aircraft in service or causing damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;

(iii) placing or causing to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight;

(iv) destroying or damaging air navigation facilities or interfering with their operation if by such act the safety of the aircraft is likely to be endangered;

(v) communicating information which he knows to be false, thereby endangering the safety of an aircraft in flight,

commits an offence punishable by severe penalties by virtue of this Convention. Also, any person commits an offence entailing severe penalties if he attempts to commit any of the above-mentioned offences and an accomplice of a person who commits or attempts to commit any such offence will also be committing an offence under this Convention punishable by severe penalties. In other words, this Convention applies equally to attempts made and to accomplices as well.

(b) *Aircraft to which the Convention does not apply.*—The Montreal Convention does not apply to military aircraft or to aircraft belonging to customs or police service.

(c) *Applicability of the Convention.*—The Convention is applicable not only at the stage when the aircraft is in flight but also at the stage of preparation on ground preceding the flight and for twenty-four hours after the landing of the aircraft. For the purposes of the Convention, an aircraft is deemed to be in flight from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, or in the case of forced landing, until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

(d) *Purpose of the Convention.*—This Convention primarily aims at ensuring that any person committing an offence under this Convention is punished. To this end, the Convention requires every State where the alleged offender is found, either to extradite him or to prosecute him.

(e) *Jurisdiction.*—In respect of offences under this Convention, a number of States have been given concurrent jurisdiction. These are the States where the offence is committed, the State of registration of the aircraft against or on board which the offence is committed, the State where the alleged offender is found and in the case of an offence committed against or on board an aircraft leased without crew to a lessee, the State where the lessee has his principal place of business or if the lessee has no such place of business, the State of his permanent residence. Thus, a limited principle of universality has been introduced with a view to achieve the objective that an offender under this Convention does not find a haven of immunity at least amongst the contracting States.

3. The Montreal Convention does not apply to acts which are offences in relation to an aircraft when both the place of take off and the place of landing of such aircraft are situated in the country in which the aircraft is registered. It is proposed to avail of the present opportunity to cover such cases also in respect of aircraft registered in India. Further, the Convention applies only to those air navigation facilities which are used in international air navigation. It is proposed to cover all air navigation facilities and not merely to those used in international air navigation.

4. The Bill seeks to achieve the above objects.

NEW DELHI;

BHAGWAT JHA AZAD.

The 19th October, 1982.

SMT. K. K. CHOPRA,
for Secretary-General.